

MAY 26 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)
)
 Amendment of the Commission's Rules)
 to Establish Rules and Policies)
 Pertaining to a Non-Voice, Non-)
 Geostationary Mobile-Satellite Service)

CC Docket 92-76

**REPLY COMMENTS OF
 VOLUNTEERS IN TECHNICAL ASSISTANCE, INC.**

Volunteers in Technical Assistance, Inc. ("VITA"), by its attorneys, hereby submits the following reply in response to certain comments filed in response to the Commission's Notice of Proposed Rulemaking (the "Notice") in the above-referenced proceeding, regarding the promulgation of rules to govern the new, non-voice, non-geostationary orbit, mobile satellite service ("NVNG Service").

VITA's reply addresses the following points: First, contrary to the vague complaints of certain commenting parties, the proposed rules allow sufficient room for multiple entry in very limited spectrum and should be implemented without further delay. Second, NVNG Service providers should be given as much flexibility as possible in the construction and operation of their systems to allow them to take advantage of advances in technology and changes in the market associated with the development of any new communications service.

Finally, as a nascent industry, NVNG Service providers should not be hamstrung by proposed rule requirements that subject them to extensive recordkeeping and reporting requirements that do not serve any clear regulatory purpose and are more appropriate for established industries.

**I. MULTIPLE ENTRY IS PERMITTED; IMPLEMENTATION
 SHOULD NOT BE DELAYED TO ACCOMMODATE
 HYPOTHETICAL, UNDEFINED FUTURE SYSTEM PROPOSALS.**

The proposed rules will allow all three current applicants to implement their systems and, as all commenting parties agree, leaves additional spectrum for future system proposals. Although some commenters complain that the rules should allow

more room for future entry, even they do not allege that the remaining spectrum would

be insufficient for one or more additional systems. Nor do these commenters, who have submitted no technical analysis, offer any proposal whatsoever as to how the rules should be redrafted to provide for additional entry.

Furthermore, what these commenting parties seem to accept as a given — the resolution of the mutual exclusivity that existed among applicants prior to the negotiated rulemaking — was no easy task.¹ Current applicants were required to, and did, compromise and cut back on their proposals to allow all to go forward, and to leave additional room for future entry.

VITA urges the Commission to ignore suggestions that final rules should be delayed pending the completion of unspecified experiments and consultations.² There are immediate and pressing needs of the impoverished communities throughout the developing world for basic communications services that VITA's system will address. VITA respectfully submits that their needs should not await the outcome of additional debate regarding the optimum method for NVNG Service system implementation.

II. NVNG SERVICE PROVIDERS SHOULD BE GIVEN AS MUCH FLEXIBILITY IN THE CONSTRUCTION AND OPERATION OF THEIR SYSTEMS AS POSSIBLE.

There will, almost inevitably, as in any new service, be a learning curve for all system proponents. It is, therefore, important to allow NVNG Service providers as much flexibility as possible in designing their systems to take advantage of technical and marketing experience that may develop over the course of implementing their systems. With this in mind, in addition to its own suggestions along these lines, VITA supports Starsys' proposal that would authorized NVNG system permittees to construct "operationally equivalent" as opposed to "technically identical" satellites. VITA agrees with Starsys that, over the course of time, it may be desirable for an NVNG permittee to change manufacturers and/or make minor technical refinements in its satellite design that, as long as they do not increase the interference potential of the satellite system, should not require construction permit modification.

¹ It should be noted, in this regard, that the participants in the Commission's "big LEO" negotiated rulemaking were unable to agree upon rules that could accommodate all pending applicants, much less to allow for additional future entry. See Report of the MSS Above 1 GHz Negotiated Rulemaking Committee, CC Docket No. 92-166 (Apr. 6, 1993).

² See Comments of LEO 1 Corporation at 4-5.

VITA also concurs with Starsys that the FCC should, in applying specific milestone and other requirements, take into account the differences among the systems proposed and not assume that, for regulatory purposes, "one size fits all." Thus, as pointed out by VITA in its initial comments, it would not be appropriate to apply the same financial and milestone burdens on an applicant proposing to construct and launch fewer than five satellites as would be imposed on a system with twenty or more satellites proposed.

III. EXTENSIVE LICENSE APPLICATION AND REPORTING REQUIREMENTS REGARDING SPECTRUM UTILIZATION ARE UNNECESSARILY BURDENSOME AND SHOULD NOT BE REQUIRED.

VITA also concurs with Starsys that the proposed semi-annual spectrum efficiency reporting requirement, proposed § 25.142(c), is unnecessarily burdensome and disagrees, with Orbcomm and dbX who would impose even more burdensome requirements either at the application stage or as an ongoing reporting matter. As recognized by the Commission and conceded by Orbcomm in its comments, there is no one clear test for what constitutes spectrum efficiency nor single measure that can be divorced from consideration of the kinds of services that are being provided. Yet, the proposed capacity utilization reporting requirements seem to presuppose that the more satellites included in a system, the more efficient it will be.

As pointed out by VITA in its comments and in other filings before the Commission, a bigger system is not necessarily better, particularly if the costs of implementing it results in a price of service that is beyond the means of those most in need of basic communications services.³ Furthermore, given the fact that the different

³ Although it may be a worthwhile goal worth exploring on an individual system basis, VITA also disagrees with the proposal of the Interagency Committee on Search and Rescue ("ICSAR") that NVNG systems be required to make their systems compatible with existing search and rescue ("SAR") PSDN communications interfaces. Particularly at the early stage of developing new NVNG services, VITA urges that it would not be appropriate to impose such an additional burden and cost. Furthermore, it appears that the Commission's recent decision regarding the use of the frequency 406.025 MHz for emergency

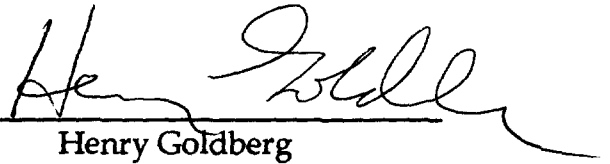
systems proposed will employ different amounts of spectrum, in different bands, using different modulation techniques, with different affects on the ability of other systems to coexist within the available spectrum for this service, there is no easy translation between the amount of capacity available or used over any particular area and the spectrum efficiency of the system.

Finally, given the recognized uncertainties of any particular measure of efficiency in the new non-geostationary satellite services and the necessary absence of any proposed correlative rules that would require systems to serve so many customers or provide so much data capacity, etc., VITA questions the need to impose burdensome utilization data collecting and semi-annual reporting requirements. Even if there is a marginal use for such data, moreover, VITA questions whether the value of this use outweighs the costs of the additional recordkeeping and paperwork burden that would be imposed.

CONCLUSION

NVNG Service is needed in numerous parts of the world that presently lack any effective means for even the most basic telecommunications. VITA stands ready to implement this service to respond to these needs and urges that final rules for this vital service be issued at the earliest possible date.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of Volunteers in Technical Assistance, Inc. was sent on this 26th day of May, 1993, by first-class mail, postage prepaid, to each of the following:

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